

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
Beckley Division**

UNITED STATES OF AMERICA)	
)	
Plaintiff/Respondent,)	
)	
v.)	Criminal No. 5:14-CR-00244
)	Civil No. 5:18-CV-00591
)	
DONALD L. BLANKENSHIP)	
)	
Defendant/Movant.)	

AGREED-UPON MOTION TO UNSEAL

Donald L. Blankenship, by and through counsel, respectfully submits this Agreed-Upon Motion to Unseal. On September 5, 2018, Mr. Blankenship filed a Motion for Evidentiary Hearing with exhibits (ECF No. 704). On September 5, 2018, Mr. Blankenship also filed a Memorandum in Support of his Section 2255 Motion (ECF No. 703) which he amended¹ on September 6, 2018 (ECF No. 705). On September 6, 2018, this Court directed the parties to present a set of redacted briefing and/or exhibits “suitable for viewing on the public docket.” (ECF No. 706).

As the Court recognized, generally, “Court documents should be publicly available for inspection.” (ECF No. 706); L.R. Civ. P. 26.4(c)(1). The common law presumes “a general right to inspect and copy public records and documents, including judicial records and documents.”

¹ A formatting error caused the original pleading to exceed the page limitation. The amended pleading corrects this error, but contains no substantive changes from the original.

Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 (1978). The First Amendment goes further, demanding that a compelling government interest be shown for the Court to deny the public access to documents filed in connection to “a motion filed by a party seeking action from the court.” *Virginia Dep't of State Police v. Washington Post*, 386 F.3d 567, 573, 576 (4th Cir. 2004).

Pursuant to Section V of the Protective Order (ECF No. 690-1), the parties have conferred regarding the designation of materials designated as “Confidential.” The United States has agreed to change the designation for certain materials and permit their public use. After further consultation between the United States and the involved entities and based upon redactions now agreed upon between the parties, Mr. Blankenship and the United States agree that the following materials may be made publicly available:

- Motion for Evidentiary Hearing (attached to this motion as Exhibit 1)
- Exhibit 1 to Motion for Evidentiary Hearing (attached as Exhibit 2)
- Exhibit 2 to Motion for Evidentiary Hearing (attached as Exhibit 3)
- Memorandum in Support of Section 2255 Motion (attached as Exhibit 4)
- OPR Report of Investigation (attached as Exhibit 5)
- DLB-001532 (attached as Exhibit 6)

In addition, the parties agree that the following exhibits attached to the Amended Memorandum in Support of Section 2255 Motion may be unsealed in their entirety:

- Attachment 1 (ECF No. 703-1)
- Attachment 2 (ECF No. 703-2)
- Attachment 3 (ECF No. 703-3)

For the foregoing reasons, the parties respectfully request that the above-referenced pleadings be unsealed and made publicly available.

Dated: September 26, 2018

Respectfully submitted,

/s/ Howard C. Vick
Howard C. Vick
Michael A. Baudinet
MCGUIREWOODS LLP
Gateway Plaza
800 E. Canal Street
Richmond, VA 23219-3916
Tel: (804) 775-1000
Fax: (804) 775-1061
tvick@mcguirewoods.com
mbaudinet@mcguirewoods.com

Benjamin L. Hatch
MGUIREWOODS LLP
World Trade Center
101 West Main Street
Suite 9000
Norfolk, VA 23510-1655
Tel: (757) 640-3700
Fax: (757) 640-3701
bhatch@mcguirewoods.com

/s/ W. Henry Jernigan, Jr.
W. Henry Jernigan, Jr. (WVSB No. 1884)
DINSMORE & SHOHL LLP
707 Virginia Street, East, Suite 1300
P.O. Box 11887
Charleston, West Virginia 25339-1887
Telephone: (304) 357-0900
Facsimile: (304) 357-0919
henry.jernigan@dinsmore.com

Counsel for Donald L. Blankenship

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Defendant/Petitioner.)	

CERTIFICATE OF SERVICE

I, W. Henry Jernigan, do hereby certify that a foregoing **Agreed-Upon Motion to Unseal Pleadings** was served through the Court's electronic filing system on this the 27th day of September, 2018 upon the following counsel of record:

Douglas W. Squires, Esquire
Assistant U.S. Attorney
U.S. Attorney's Office for the Southern District of Ohio
303 Marconi Blvd., Suite 200
Columbus, OH 43215

/s/ W. Henry Jernigan, Jr.
W. Henry Jernigan, Jr. (WVSB No. 1884)